



**In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth**

No. 02-18-00434-CR

ROBERT F. HALLMAN, Appellant

V.

THE STATE OF TEXAS

On Appeal from Criminal District Court No. 1
Tarrant County, Texas
Trial Court No. 1548964R

ORDER

On May 7, 2020, this court issued an opinion reversing Appellant's conviction of two counts of aggravated sexual assault of a child younger than 14 years of age, three counts of indecency with a child by contact, and one count of sexual assault of a child under the age of 17. *See Hallman v. State*, No. 02-18-00434-CR, 2020 WL 2201908, at *1 (Tex. App.—Fort Worth May 7, 2020, no pet. h.).

Appellant's attorney filed a "Motion for Appeal Bond After Reversal" on June 8, 2020, asking this court to set a reasonable appeal bond and suggesting that we set it at no higher than \$10,000. *See* Tex. Code Crim. Proc. Ann. art. 44.04(h). Because no petition for discretionary review is currently pending,¹ we are charged with determining the amount of bail.² *See id.*

Code of Criminal Procedure Article 17.15 states that in determining the amount of bail in any case, courts are to be guided by the following rules:

1. The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with.
2. The power to require bail is not to be so used as to make it an instrument of oppression.
3. The nature of the offense and the circumstances under which it was committed are to be considered.

¹According to Appellant's motion, the State has filed a motion for extension of time to file a petition for discretionary review in the Texas Court of Criminal Appeals.

²On June 18, 2020, we received a pro se motion from Appellant, asking for bail or a personal bond. Because Appellant is not entitled to hybrid representation, we will take no action on his pro se motion. *See Patrick v. State*, 906 S.W.2d 481, 498 (Tex. Crim. App. 1995).

4. The ability to make bail is to be regarded, and proof may be taken upon this point.

5. The future safety of a victim of the alleged offense and the community shall be considered.

See id. art. 17.15.

In addition, courts have also considered the following factors: (1) the defendant's work record; (2) the defendant's family and community ties; (3) the defendant's length of residency; (4) the defendant's prior criminal record; (5) the defendant's conformity with previous bond conditions; (6) the existence of other outstanding bonds, if any; and (7) aggravating circumstances alleged to have been involved in the charged offense. *Aviles v. State*, 26 S.W.3d 696, 698–99 (Tex. App.—Houston [14th Dist.] 2000, no pet.) (citing *Ex parte Rubac*, 611 S.W.2d 848, 849–50 (Tex. Crim. App. [Panel Op.] 1981)). When an intermediate court of appeals must set bail, we may also consider the following: (1) the fact that the conviction has been overturned; (2) the State's ability, if any, to retry the appellant; and (3) the likelihood that the decision of the court of appeals will be overturned. *Id.* at 699; *see Ex parte Lyon*, No. 02-19-00339-CR, 2019 WL 5460680, at *1 (Tex. App.—Fort Worth Oct. 24, 2019, no pet.) (mem. op., not designated for publication) (acknowledging that the factors listed in *Aviles* are considerations in setting bond after a conviction is reversed).

In its response, the State requests that we set bond at \$75,000, arguing that Appellant poses a greater flight risk than he did prior to trial because of the serious

nature of the offenses, because—if the case is remanded—the State intends to retry him, because of his multiple prior convictions, and because Appellant’s release on bail poses a serious threat to the future safety of the victims and others based on testimony during his trial and his behavior during pretrial hearings.

Having considered all of the above, we grant in part and deny in part Appellant’s motion. We grant the portion of his motion requesting that we set a reasonable bond but, in accordance with Code of Criminal Procedure Article 44.04(h), we order his bail set in the amount of \$75,000. *See* Tex. Code Crim. Proc. Ann. art. 44.04(h); *see also Hallman*, 2020 WL 2201908, at *1 (stating that the jury sentenced appellant to life imprisonment on each count of six sex-related offenses). All further matters related to Appellant’s release, including approval of sureties and setting reasonable conditions of bail, shall proceed in the court where the trial was had. *See* Tex. Code Crim. Proc. Ann. art. 44.04(h).

The clerk of this court is directed to transmit a copy of this order to the attorneys of record, the trial court judge, and the trial court clerk.

Delivered June 18, 2020

Per curiam

Panel: Sudderth, C.J.; Gabriel and Wallach, JJ.